



STATE BOARD OF LAND COMMISSIONERS

Philip E. Batt, Governor and President of the Board
Pete T. Cenarrusa, Secretary of State
Alan G. Lance, Attorney General
J. D. Williams, State Controller
Anne C. Fox, Superintendent of Public Instruction

Stanley F. Hamilton, Secretary to the Board

MINUTES SPECIAL LAND BOARD MEETING July 21, 1998 9:00 AM

The special meeting of the Idaho State Board of Land Commissioners was held on July 21, 1998, in Boise, Idaho. The Honorable Philip E. Batt presided. The following members were present.

Honorable Secretary of State Pete T. Cenarrusa
Honorable Attorney General Alan G. Lance
Honorable State Controller J.D. Williams

Secretary to the Board Stanley F. Hamilton

Superintendent Anne Fox was in Washington, D.C. testifying on the Admissions Act changes for the Land Board and was not present at the meeting.

Governor Batt opened the meeting by welcoming the Federal Lands Task Force members and others who assisted the Task Force in their deliberations.

Director Hamilton said over the past twenty years or so there has been a lot of discussion about the western states and the purpose and the use of federal public lands. The question was always, can some other entity manage public lands more economically and more to the benefit of the people who are dependent on them for jobs, goods, services and recreation.

In 1996, the Legislature enacted Senate Bill 1354, which clarified that the State of Idaho could enter into agreements with the federal government to cooperatively manage selective lands. Subsequently, the Board of Land Commissioners appointed a Task Force of interested citizens to consider those questions.

The Task Force consisted of people who were familiar with the management of federal public lands, state lands, rangelands, timberlands, recreation, fish and wildlife and environmental issues. The sponsors of that 1996 bill, Senator Judi Danielson and Representative Charles Cuddy served as the co-chairs for that Task Force.

The Task Force was directed to complete its deliberations and present a written report of its findings to the State Board of Land Commissioners by June 30, 1998. The report is now complete and the Task Force is prepared to present the report to the Land Board.

Governor Batt commended Senator Danielson and Representative Cuddy for their job of co-chairing the Task Force and asked that they present the results of their study.

Senator Danielson said that she and Representative Cuddy would like to thank the Land Board for the opportunity to pursue this issue. She stated that the Task Force members would be recommending new approaches to managing the federal administered lands that would be innovative and more in-tune with the needs of the public as well as the environment.

She stated that the key to the report is new approaches. The three principles were established to guide the Task Force and frame discussions in development of alternatives. At this time, ownership of federal lands will not be transferred to the state of Idaho. The variety of uses will continue on land currently managed for multiple use. The third principle is that the public will be involved in the decision-making process.

Representative Cuddy thanked the Land Board for their excellent choice of members for the Task Force. He also thanked the Land Board for the opportunity to try to come up with a better method of managing public lands.

He stated that the Task Force said they would live as the State Department of Lands has to this date, under the jurisdiction of the Land Board, with the environmental laws and see that they are maintained. Fish and wildlife habitat – which is important to all people of Idaho – see that it is improved. Community stability and resiliency – in Representative Cuddy's area, 62% of the economy is wood product and wood product oriented.

Representative Cuddy stated that in the area he lives in there are two national forests that have four million acres in them. Of that four million acres, 50% of it is already set aside in wilderness, in proposed wilderness or roadless areas and 25% is governed by fish and wildlife habitat being the primary use. That leaves 25% or less for them to manage for resources.

Representative Cuddy made a comparison – on sustained yield basis, the state of Idaho owns 250,000 acres in and mingled with this same area. The two national forests put out about 40 million board feet of timber. The State Department of Lands, on a sustained yield basis, put out 50. He stated that he felt this statement says a lot about why the Task Force is here and where we need to go.

Senator Danielson said the Task Force would be going over the three approaches that they came up with. She introduced Jay O'Laughlin from the University of Idaho, who talked about the problem statement its findings.

Mr. O'Laughlin said the problem statement that the Task Force came up with was basically that goods, services and values from federal lands are not meeting the changing expectations. He

said he felt the reason he was chosen for the Task Force was that his group at the University had a project underway on the history and analysis of federally administered lands in the state. That report is finished and Mr. O'Laughlin provided copies to the Land Board. He said that report basically tried to answer four questions and analyze some alternatives.

Only one state has more federal land than Idaho. Idaho has 64% federal land. The statutory purpose of these federal lands is multiple uses. These lands are primarily BLM and Forest Service lands. Ownership of these lands – they are federal property and it is the absolute power of Congress to determine what happens to those lands. There are only two states that have more national forest than Idaho, however Idaho is smaller, therefore, no state has a higher proportion of national forests than Idaho.

The timber harvest in Idaho ranged at about 1.7 billion board feet up until 1990 when they began to taper off due to declining timber harvests in national forests.

There are physical problems in the forests – ecological problems. Mortality rates have increased. On some national forests, timber mortality exceeds growth. They are dying faster than they are growing.

The solution of the federal government is to undertake ecosystem management throughout a seven state area —which includes almost all of the state of Idaho. This is what we call a no-action alternative.

He stated a couple of findings from the Columbia Basin project. The lethal fire potential has tripled on federal lands in Idaho and Montana and this poses threats to ecological integrity water quality species recovery.

Scientists on the Columbia Basin project concluded that active management appears to have the greatest chance of producing the mix of goods and services that people want from ecosystems, as well as maintaining or enhancing the long-term ecological integrity of the basin.

Mr. O'Laughlin quoted the following from a sidebar quote from the Task Force report. "The federal government's general accounting office has observed that the forest service decision making process is clearly broken and in need of repair. Without some agreement on the mission of the agency and its priorities, distrust and gridlock could prevail and stymie the efforts to streamline the agency's statutory framework."

Mr. O'Laughlin stated that there were two major findings in the Task Force report. Finding #1 is short – the system is broken. Finding #2 – significant changes to the decision making processes are necessary and the changes proposed in the Interior Columbia Basin and Upper Columbia River Basin draft and environmental impact statement are not adequate.

The trajectory that we are on right now – what the Task Force calls the no-action alternative—is there will be more planning and analysis that will have delays associated with it as well as job losses. Flexibility of managers will be reduced by standards or required actions. The mission of

multiple use is confused with ecological integrity laid in with it. This no-action alternative fails three of our functional objectives which is – streamline decision making and localize it – stabilize agency budgets – stabilize rural communities and this alternative perpetuates issues and inaction.

The no-action alternative action leads to gridlock, which is an inability to resolve conflicts in a decision making body. There are checks and balances designed in our governmental system. Gridlock, the Task Force believes is neither inevitable nor desirable.

Members of the Task Force will present three action alternatives. Senator Danielson introduced Mr. Joe Hinson, who discussed the trust alternative as a pilot project being proposed by the Task Force.

Mr. Hinson stated this is a good place to start because the Land Board certainly has a lot of experience in the trust alternative. It was looked at because it works well in Idaho as well as twenty-nine (29) other states that administer trust lands.

Collectively, the ownership of state trust lands across the country is almost identical to total ownership of national forest lands. Trusts have three (3) items in common. First of all there is the fiduciary responsibility on the part of the trustees. Second of all there is clarity of mission and third, there is an old large body of law that clarifies how trusts are to be managed and operated.

Legislation would have to take place and among the provisions of that legislation would cover several areas. First it would include an expression of the intent and purpose of the trust. Second, the legislation would need to designate the beneficiaries – the Task Force felt there should be three, local government, Idaho Fish and Game and the Idaho Parks and Recreation. Third, the legislation would designate the actual trustees –the Task Force felt there should be three from the state that could include members of the Land Board. There also should be four trustees named to represent national interests and the Secretary of Agriculture/Interior, depending upon the ownership of the land in question would name those. Fourth, the legislation would have to establish a governing structure wherein the trust manager would report to the trustees and would also establish a local advisory council who would be the local eyes and ears of the trustees and the trust manager. Fifth, the legislation would need to clarify the procedures that would be adhered to in the operation of the trust to insure compliance with all the relevant environmental laws

Mr. Hinson spoke briefly on the planning, public input and resolution of appeals processes. He stated that these would be relevant, not only for the trust alternative, but this basic plan would be equally relevant to the collaborative process and the cooperative alternative.

Mr. Hinson stated that the Task Force feels this would be the alternative that would provide the greatest stability over the long-term.

Margaret Soulen provided comments on the collaborative alternative. The Task Force defined collaboration as a group of individuals working together to achieve a common goal. In order for collaboration to work three (3) prerequisites were identified. First, there has to be a common goal. Second, there could be no venue shopping (meaning that individuals could not choose to participate in the collaborative process while it met their needs, but then seek out other forms when it didn't). Third, that the process needed to be legitimized, either by the management agency or by Congress, as the appropriate form for decision making.

There would be a collaborative group made up of a maximum of fifteen (15) individuals who represented a wide array of both national and local interests. The representation would include: commodity users, recreation users, fish and wildlife, local government and also environmental advocates.

This collaborative group would be charged with developing and monitoring the implementation of the five-year and one-year plans. The plan would be much the same as the trust model. The collaborative would be responsible for collecting public comment and determining objectives. Appeals would be handled in the same manner as the trust model, other than those appeals would be managed by the collaborative group.

There are several collaborative groups working today on a much smaller scale. There is the Morgan Creek Allotment in the Challis district. Probably the most significant attempt to resolve natural resource conflicts through collaboration has been the Quincy Library Group, in the Sierra Nevadas.

Mr. Ernie Lombard discussed the cooperative alternative. Mr. Lombard stated that it is almost almost self-explanatory. It is an arrangement where two or more parties agree to accomplish a mutually beneficial objective through agreement under which both accept certain responsibilities under which both contribute resources.

There are a number of examples in Idaho. This agreement has to be reduced in writing so everyone agrees on his or her mutual responsibilities. The objectives have to be clearly stated and all parties are fully informed of what their obligations are under the cooperative agreement and they are accountable to each other. This usually results in Memorandums of Understanding (MOU) or Memorandums of Agreement (MOA).

A primary example of a cooperative agreement in Idaho is the City of Rocks National Reserve. In 1994, the City of Rocks National Reserve was officially transferred to Idaho Parks and Recreation for exclusive management. Mesa Falls in Fremont County is also in joint management with a cooperative agreement.

Mr. Lombard stated that these cooperative agreements in Idaho work because the Forest Service, the BLM, or the Bureau of Reclamation wants them to. He mentioned that the Lake Cascade State Park in conjunction with the Bureau of Reclamation. He brought out that these cooperative agreements are not perfect.

Representative Cuddy stated that the Task Force recommendation is that the Land Board pursues some of the things that have been discussed. He expressed a hope that the Land Board would endeavor to do some of the things suggested to see if the state can't do a better job.

Representative Cuddy said that the two forests in his area are basically 75% taken out of productive management and 25% is supposed to be in productive management. Many would say that our economy should be 75% recreation and 25% industry. It is not. The wood products industry is the second largest industry in Idaho. He said we are finding that no management does not create a good economy. He said he did not think it would be too much to ask to take 25% of that land and designate it as helping the local economy, stabilizing the local community and providing jobs. He said he hoped the Land Board would push in that direction.

Senator Danielson introduced the Task Force members to the Land Board and stated that this group had done a yeoman's job. Many of these served at their own expense and time. Each Task Force member that was present provided brief comments.

Senator Danielson stated that the committee has worked hard on the new approaches that have been brought before the Land Board. She thanked the Land Board for being so patient and cooperative and stated that it has been an honor to serve on this issue.

Representative Cuddy thanked the Land Board for this opportunity. He also thanked all the Task Force members who made the commitment to put this together. He thanked all of the federal employees who were very cooperative, and were committed to assist the Task Force in any way they could see possible, throughout this whole process. He stated that there are many federal employees who would like to see some change and stability in their operation. If that objective can be made, then the Task Force has been a total success.

Governor Batt thanked the co-chairs and all of the Task Force members for the marvelous job that was done. He opened for comments and questions from the Board members. Governor Batt suggested that the report should be physically accepted and reserve any endorsements until later.

State Controller Williams said he felt this would be the way to do this. He thanked the Task Force for their contributions. He stated that he had attended several of the Task Force meetings. He suggested that a resolution be drawn up and signed by the Land Board members to present to the Task Force members.

State Controller Williams said he liked to use the phrase, "It is not for the faint of heart." This is something that is going to take a lot of time to work with. If this is not a win-win situation for Idaho and the eleven western states that have most of the public lands, the other thirty-nine states are not going to agree with it. This is a good start. He suggested rather than to take a lot of comments, that the report be widely disseminated throughout the state to environmental groups, interest groups, industry, etc. and invite their comments on it.

State Controller Williams said his real concern was the financial side. As he researched this, he felt it might be worthwhile to try a pilot project.

Secretary of State Cenarrusa thanked the entire membership of the Task Force for the work that has been done, with so much personal sacrifice. He stated it was a job well done and a great step forward by seeing what cooperation and collaboration among the agencies can do rather than going in different directions. Let's pull together.

Secretary of State Cenarrusa said he believed this is a first in the United States. Other states are looking at what occurs here. He said he felt we can do a good job, will do a good job.

Attorney General Lance also thanked the co-chairs of the committee as well as those who served on the Task Force. He said he felt this was an excellent example of bipartisan cooperation on issues that have a tremendous impact on the state of Idaho and western states in general.

Attorney General Lance said one of the things that was discussed at the Western Attorneys General was this very thing. We are seeing a disappearing way of life by virtue of some of the court decisions that have come down and some of the restrictions on the use of our public lands. He stated that his colleagues, representing eighteen western states, were interested in receiving copies of the report.

Attorney General Lance said it seemed to him that we need to figure out where we are going from here. Not only does the Land Board need to support the efforts of the Task Force and consider the report, but also at some time the Legislature needs to provide their support, and possibly financial support. Then we need to figure out how to get the word out to our eighteen western states that are impacted by these types of issues.

He stated that it was his understanding that any alternative selected or preferred will require congressional action. He felt we need to start looking for ways to get the word out and make presentations. He said this would be a long and expensive haul.

Governor Batt commended the Task Force and stated that they have provided a starting point. He agreed that the document needed to be provided to the other states.

Secretary of State Cenarrusa made the motion to accept the report. State Controller Williams seconded the motion with the understanding that a resolution be prepared and a plaque for each person for their fine service. Secretary of State Cenarrusa agreed. The motion carried on a vote of 4-0 with Superintendent Fox being absent.

Attorney General Lance said that he would be interested in knowing the willingness of the committee and the co-chairs to do some traveling to western states to address other members of other state land boards and provide the same presentation as was presented to the Idaho State Board of Land Commissioners. He stated that this is a function of money. He said he would like to know who would be willing to make this type of presentation and an estimate of

cost. He also asked for a recommendation or suggestion as to whether or not the co-chairs felt that Legislature should be approached to possibly appropriate the necessary funds for purposes of putting the word out.

The meeting adjourned.

IDAHO STATE BOARD OF LAND COMMISSIONERS

Philip E. Tate
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President, State Board of Land Commissioners and
Governor of the State of Idaho

Pete T. Cenarrusa
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Pete T. Cenarrusa
Secretary of State



Stanley F. Hamilton
COPY

Stanley F. Hamilton
Director